

REMARKS

This paper is intended to be a complete response to the above-identified Final Office Action. Pursuant to 35 U.S.C. 132(b) and 37 C.F.R. 1.114, the above-identified application is the subject of a Request for Continued Examination (RCE). The Commissioner is authorized to deduct the necessary charges under 37 C.F.R. 1.17(e) for this submission from Deposit Account 501922/119-0028US.

Claims 72-75 have been added. Claims 44-71 have been cancelled. Claims 1-18, 22-35, 41 and 43 have been amended by this Reply. Accordingly, claims 1-43 and 72-75 are currently pending. Support for these amendments can be found in Assignee's Specification, at least at, Fig. 2 and ¶¶ 11, 16 and the claims as originally filed.

Prior Art Rejections

In responding to the Examiner's prior art rejections, Assignee here only justifies the patentability of the independent claims (*i.e.*, claims 1, 13, 26, 35, 43, and 73-75). As the Examiner will appreciate, should these independent claims be patentable over the prior art, dependent claims would also necessarily be patentable. Accordingly, Assignee does not separately discuss the patentability of the dependent claims, although Assignee reserves the right to do so.

Rejections Under 35 U.S.C. § 102(b)

The Examiner has rejected independent claims 1, 13, 26, 35, 43, 54, and 64 as allegedly being anticipated under 35 U.S.C. 102(b) by U.S. Patent No. 5,862,252 to Yamamoto et al. ("Yamamoto"). Final Office Action dated 24 November 2009 at pg. 2.

The Examiner is reminded, for a sustainable 35 U.S.C. § 102 rejection, "[t]he identical invention must be shown *in as complete detail* as is contained in the ... claim." M.P.E.P. § 2131 quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d (BNA) 1913, 1920 (Fed. Cir. 1989) (emphasis added). Furthermore, "[t]he elements *must be arranged* as required by the claim..." M.P.E.P. § 2131 quoting *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d (BNA) 1566 (Fed. Cir. 1990) (emphasis added).

Yamamoto is directed to “[a]n image processing method and apparatus using the method, allows a target object to be displayed in a 3-D manner. A number of types of *shape data with different resolutions* for displaying the object are provided and the resolution of shape data used [in] the 3-D image display is decided in accordance with a display condition. The object is displayed in the form of a 3-D image by *employing the shape data with the decided resolution.*” Yamamoto at Abstract (emphasis added). Yamamoto further discloses “[s]till another aspect of the present invention relates to ... *generating* a 3-D geometrical shape using *triangular patches.*” Yamamoto at Col. 1 lns. 19-21 (emphasis added). Simply put, Yamamoto discloses a method of storing shape data in different resolutions for later use in *generating* a 3-D image of a target object.

As explained in the interview of 27 August 2009, the triangular shape disclosed in Yamamoto as “shape data” is being interpreted by the Examiner as anticipating an “image preview.” While Assignee believes this interpretation is counter to the clear teachings of Yamamoto, claim 1 has been amended to recite, *inter alia*, “an image preview comprises a single complete graphical representation of the at least one image.” Yamamoto is silent as to storing multiple resolutions of image previews as recited in amended independent claim 1 because in Yamamoto the image is *generated* at display time *from stored shape data* using a “Delaunay triangulation.” See Yamamoto at Col. 4 line 60. The stored *shape data* disclosed in Yamamoto is fundamentally different from an *image preview comprising a single complete* graphical representation, as recited in amended claim 1. Yamamoto does not describe or even suggest storing a plurality of resolutions of a complete image as an image preview (or in an image preview data set as recited in independent claims 13 and 35) for later use. As a consequence, Yamamoto does not disclose all elements of the claimed invention. Thus, the Examiner has failed to make a *prima facie* case of anticipation as required under 35 U.S.C. § 102 or established Patent Office examining guidelines. Furthermore, it does not appear that Yamamoto could be modified to disclose the elements of claim 1 because any such attempted modification would clearly change the principle of operation disclosed in Yamamoto.

While the Examiner is allowed to give claims their broadest reasonable interpretation, that interpretation *must* be consistent with the Specification. It is clearly inconsistent with the Specification and the plain language of amended claim 1 to assert Yamamoto’s “shape data” can in any way anticipate the claimed “image preview” because the “shape data” is not a single

complete graphical representation of an image. Based on this clarification, Assignee respectfully requests the Examiner withdraw this rejection.

Claims 2-12 and 72 depend from independent claim 1. Assignee has shown above that amended independent claim 1 is patentable over the cited art. As a consequence, claims 2-12 and 72 are also patentable over the cited art. Accordingly, Assignee respectfully requests the Examiner withdraw the rejection and pass claims 1-12 and 72 to allowance.

The Examiner has rejected independent claims 13, 26, 35 and 43 using substantially the same rationale. The above argument applies to these independent claims with equal force. As Assignee has shown above that Yamamoto cannot anticipate these independent claims, their corresponding dependent claims cannot be anticipated by the cited reference. Accordingly, Assignee respectfully requests the Examiner withdraw the rejection and pass claims 13-43 to allowance.

Rejections Under 35 U.S.C. § 103(a)

The Examiner has rejected dependent claims 5, 17 and 46 as allegedly being obvious under 35 U.S.C. 103(a) over Yamamoto in view of U.S. Patent No. 5,602,564 to Iwamura et al. ("Iwamura"). Final Office Action dated 24 November 2009 at pg. 9.

As Assignee has shown above, Yamamoto does not disclose each and every limitation of the independent claims from which claims 5, 17 and 46 depend. Therefore, Yamamoto fails as a primary reference and, as a consequence, the combination of Yamamoto and Iwamura cannot render claims 5, 17 and 46 obvious. Accordingly, Assignee respectfully requests the Examiner withdraw this rejection.

The Examiner has rejected dependent claims 7-8, 19-20, 27-28, 36-39, 47-48, 55-56 and 65-68 as allegedly being obvious under 35 U.S.C. 103(a) over Yamamoto in view of U.S. Patent No. 6,215,523 to Anderson ("Anderson"). Final Office Action dated 24 November 2009 at pg. 10.

Claims 47-48, 55-56 and 65-68 have been cancelled. As Assignee has shown above, Yamamoto does not disclose each and every limitation of the independent claims from which claims 7-8, 19-20, 27-28 and 36-39 depend. Therefore, Yamamoto fails as a primary reference and the combination of Yamamoto and Iwamura cannot render claims 7-8, 19-20, 27-28 and 36-39 obvious. Accordingly, Assignee respectfully requests the Examiner withdraw this rejection.

Remarks Regarding New Claims

New claim 72 is dependent on claim 1 (discussed above). New claims 73-75 each recite a computer readable medium with instructions stored thereon to perform the method of one of independent claims 13, 26 or 35. For at least the same reasons explained above, each of these claims is also patentable over the cited art. Accordingly, Assignee respectfully requests the Examiner issue a Notice of Allowance for claims 72-75.

CONCLUSION

This paper is intended to be a complete response to the above-identified Office Action. Fees for a RCE and 1 additional independent claim are filed herewith. Assignee believes no unpaid fees are due. However, if it is found that additional fees are due, the Commissioner is authorized to deduct the necessary charges from Deposit Account: 501922/119-0028USC.

Reconsideration of pending claims 1-43 and 72-75 light of the above remarks is respectfully requested. If, after considering this Reply, the Examiner believes that a telephone conference would be beneficial towards advancing this case to allowance, the Examiner is strongly encouraged to contact the undersigned attorney at the number listed.

Respectfully submitted,

/William M. Hubbard/
William M. Hubbard, J.D.
Reg. No. 58,935

Wong, Cabello, Lutsch, Rutherford & Bruccoleri, L.L.P.
Customer No. 29855 Voice: 832-446-2445
20333 SH 249, Suite 600 Mobile: 713-302-4648
Houston, Texas 77070 Facsimile: 832-446-2424
Email: wcpatent@counselip.com